



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT ANGOLA CHLORIDE VARIANCE

LSA Document #12-512

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Governor

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Commissioner

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Description

Amends 327 IAC 2-1.5-17.

Citations Affected

327 IAC 2-1.5-17; 327 IAC 5-3-4.1.

Affected Persons

This rule affects no persons.

Reason(s) for the Rule

This rulemaking effort is required as a record keeping procedure to record a variance from a water quality standard. According to 327 IAC 5-3-4.1(m), "All variances shall be appended to the water quality standards rules, 327 IAC 2-1 or 327 IAC 2-1.5 during the triennial review process." The City of Angola requested a variance from the chloride water quality standard, and the requested variance was evaluated by IDEM and approved on March 5, 2012. Therefore, the variance for Angola's chloride limit must be included in 327 IAC 2-1.5-17.

Economic Impact of the Rule

This rulemaking creates no fiscal impact on any person.

Benefits of the Rule

The act of recording the issued variance into rule improves the availability of information and complies with the requirement at 327 IAC 5-3-4.1(m).

Description of the Rulemaking Project

This rulemaking to fulfill the recording requirement under 327 IAC 5-3-4.1(m) required no involvement by the public. There are no affected regulated entities, and, therefore, none that needed to be involved in the rulemaking, which is conducted under IC 13-14-9-7 because there are no alternatives to doing the rulemaking that is required under another administrative rule.

Public Notices

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-7 and Second Notice of Comment Period: September 12, 2012, Indiana Register (DIN: 20120912-IR-327120512FDA).

Notice of Public Hearing: September 12, 2012, Indiana Register (DIN: 20120912-IR-327120512PHA).

Scheduled Hearings

First Public Hearing: November 14, 2012.



Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The water quality program in Indiana, including the NPDES program, is delegated to the state by the federal government. Changes in the program require federal approval. The issuance of variances from water quality standards is part of the NPDES program, but this rulemaking is merely to record the existence of the issued variance as required under 327 IAC 5-3-4.1(m) and does not require federal approval.

Rulemaking Process

The first step in the rulemaking process under IC 13-14-9-7 is a Findings and Determination of the Commissioner and second notice of comment period published in the Indiana Register. The department's responses to comments from the comment period and the draft rule are presented to the Water Pollution Control Board (board) at the first meeting/hearing. The public has opportunity to comment to the board at the hearing. If the board preliminary adopts the draft rule, it is then known as the proposed rule and is published in the Indiana Register after preliminary adoption along with a notice of second meeting/hearing (to consider final adoption). If the proposed rule is substantively different from the draft rule, a written comment period is required to receive comments on the proposed rule. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Legislative Services Agency.

Additional Information

Additional information regarding this rulemaking action can be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232-8635 or technical information about the rule can be obtained from Martha Clark Mettler, Deputy Assistant Commissioner, Office of Water Quality (317) 232-8402 or (800) 451-6027 (in Indiana).